

BEFORE THE
Federal Communications Commission

WASHINGTON, D.C. 20554

SEP 15 1997

In the Matter of

**Reallocation of Television Channels
60-69, the 746-806 MHz Band**

)
)
) **ET Docket No. 97-157**
)

To: The Commission

**COMMENTS
OF THE
INTERNATIONAL MUNICIPAL SIGNAL ASSOCIATION
AND THE
INTERNATIONAL ASSOCIATION OF FIRE CHIEFS, INC.**

The International Municipal Signal Association ("IMSA") and the International Association of Fire Chiefs, Inc. ("IAFC"), by their attorneys, respectfully submit these Comments in response to the Notice of Proposed Rule Making ("Notice") released by the Federal Communications Commission ("Commission") in the above-captioned matter on July 10, 1997. As explained below, IMSA and IAFC strongly support the Commission's proposal to allocate 24 megahertz of spectrum at 764-776 MHz and 794-806 MHz to public safety use and urge the Commission to move forward with the licensing of this spectrum as soon as possible, in accordance with statutory requirements.

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I. INTRODUCTION

IMSA is a non-profit organization dedicated to the development and use of electrical signaling and communications systems in the furtherance of public safety. IMSA members include representatives of federal, state, county, city, township and borough governmental bodies, and representatives of governmental bodies from foreign nations. Organized in 1896, IMSA is the oldest organization in the world dedicated to the activities pertaining to electrical engineering, including the Public Safety use of radio technology.

IAFC is a voluntary, professional membership society. Its membership, comprised of approximately 10,000 senior Fire Service officials, is dedicated to the protection of life and property throughout the United States and abroad. IAFC is the major national professional association representing the interests of senior management in the Fire Service. The Fire Service is the largest provider of emergency response medical service in the United States.

IMSA and IAFC are recognized as the frequency coordinating committee for the Fire Radio Service and the Emergency Medical Radio Service ("EMRS") and, in conjunction with the Personal Communications Industry Association ("PCIA"), constitute the recognized coordinating committee for the Special Emergency Radio Service ("SERS").

Members of IMSA and IAFC participated in all Subcommittees of the Public Safety Wireless Advisory Committee ("PSWAC"), the predecessor organization to the National Public Safety Telecommunications Council ("NPSTC"), and IMSA/IAFC are

charter members or NPSTC. Chief Michael Truman of the Los Angeles County Fire Department was a member of PSWAC's Steering Committee, and Alfred Mello of IMSA, Manager of the Interstate Frequency Coordinating Committee, was Chairman of the Technology Subcommittee. Being heavily involved in PSWAC's decision making process, IMSA/IAFC are familiar with the options and issues facing the Commission as it develops regulations and policy to meet the present and future wireless communications requirements of the public safety community. IMSA/IAFC generally agreed with PSWAC's findings and supported PSWAC's Final Report. In addition, IMSA and IAFC have reviewed the Comments being prepared by NPSTC in the above-captioned matter and generally concur with the positions expressed therein.

II. COMMENTS

In its Notice, the Commission took a significant first step toward alleviating the significant spectrum shortage that has plagued public safety entities for many years. Recognizing that "there is a critical need for more public safety spectrum in the United States"^{1/} the Commission has proposed to allocate 24 megahertz of spectrum at 764-776 MHz and 794-806 MHz (corresponding to TV channels 63, 64, 68 and 69) to public safety use for fixed and mobile services. In support of its proposal, the Commission stated that the new public safety allocation will alleviate current spectrum crowding, facilitate public safety agencies' access to new technologies for data and video

^{1/} Notice at ¶ 8.

communications and allow better communications interoperability.^{2/} The Commission requested comment, however, as to “whether 24 megahertz is the appropriate amount of spectrum to allocate for public safety from this band, or whether a greater or lesser amount of spectrum should be allocated to public safety in this region of the spectrum.”^{3/}

As demonstrated in the following comments, the allocation to public safety services of at least 24 megahertz from this band is necessary not only as a matter of sound public policy, but also to satisfy the clear requirements of the Balanced Budget Act of 1997. In addition, while IMSA and IAFC applaud the Commission’s efforts to meet public safety spectrum needs through the proposed reallocation, they believe that this measure must be implemented in conjunction with other remedies to ensure that immediate, short-term and long-term requirements are adequately addressed. IMSA and IAFC also request that, in the subsequent phase of this proceeding, the Commission propose implementation rules which are compatible with existing public safety allocations in the 800 MHz band, but which follow the frequency coordination model established in the Commission’s “refarming” proceeding for public safety pool channels below 800 MHz.

^{2/} Id.

^{3/} Notice at ¶ 9. The Commission also sought input concerning a variety of related issues, including the allocation of the remaining spectrum in the 746-806 MHz band and the treatment of incumbent operations, construction permits and pending broadcast applications. IMSA and IAFC concur with the Comments of NPSTC regarding these issues.

A. Congress Has Directed the Commission to Allocate 24 Megahertz of Spectrum at 746-806 MHz to Public Safety Services and to Commence Assigning Licenses for this Spectrum by September 30, 1998

In the Balanced Budget Act of 1997 ("Budget Act"), enacted on August 5, 1997, Congress amended the Communications Act of 1934 to require that "[n]ot later than January 1, 1998, the Commission shall allocate the electromagnetic spectrum between 746 megahertz and 806 megahertz, inclusive, as follows: . . . 24 megahertz of that spectrum for public safety services according to the terms and conditions established by the Commission." 47 U.S.C. § 337(a) (emphasis added). The Budget Act further provides that the Commission must commence assignment of the public safety licenses created through this allocation by September 30, 1998. 47 U.S.C. § 337(b)(1). Accordingly, the creation of this public safety allocation and the prompt assignment of new licenses is not a matter of administrative discretion, but rather the subject of a Congressional mandate.^{4/}

B. The Proposed Public Safety Allocation Will Serve the Public Interest

While there are a host of competing demands for the electromagnetic spectrum, many of which would provide some benefit to the public, none can provide as widespread and vital a benefit as public safety communications. Among other things, radio systems enable public safety entities to arrive quickly and safely at the scene of a fire, hazardous

^{4/} See MCI Telecommunications Corp. v. American Telephone and Telegraph Co., 114 S. Ct. 2223-2231 (1994) (Commission may not deviate from clear requirements of Communications Act).

materials incident, natural disaster or other emergency and to exchange critical information that facilitates their ability to respond to the situation. Unfortunately, public safety agencies have been hampered for many years by a rising level of congestion on public safety channels and a corresponding lack of available spectrum.

Following extensive study and the comments of numerous interested parties, PSWAC concluded in its Final Report to the Commission that immediate measures must be taken to alleviate existing spectrum shortfalls and promote interoperability between public safety agencies.^{5/} Otherwise, warned PSWAC, these agencies “will not be able to adequately discharge their obligation to protect life and property in a safe, efficient and cost effective manner.”^{6/} One of PSWAC’s recommendations for the short term was that the Commission designate approximately 25 megahertz of additional spectrum to public safety services from television broadcast channels 60-69 (746-806 MHz).^{7/}

IMSA and IAFC agree with the Commission that the 24 megahertz of spectrum in the 764-776 MHz and 794-806 MHz bands is well-suited to the needs of public safety licensees. The Commission correctly pointed out that because this spectrum is adjacent to existing public safety operations in the 806-824 MHz band, it “holds the best potential for expansion of and interoperability with existing systems,” and the difficulty and cost of

^{5/} Final Report of the Public Safety Wireless Advisory Committee to the Federal Communications Commission and the National Telecommunications and Information Administration, Executive Summary, p. 2 (Sept. 11, 1986) (“PSWAC Final Report”).

^{6/} Id.

^{7/} Id. at Executive Summary, p.3.

designing new equipment should be reduced.^{8/} Interoperability among and between different agencies within a jurisdiction, as well as between different jurisdictions and levels of government, is essential to the effective discharge of the responsibilities of public safety entities. Implementation of the proposed allocation also would provide public safety agencies with some of the additional spectrum they need to deploy advanced technologies such as high speed data and video transmission. In view of the potential for achieving such pervasive (and long overdue) improvements to public safety communications, IMSA and IAFC strongly support the Commission's proposal

C. The New Allocation Must be Employed in Conjunction With Other Measures

PSWAC's recommendation regarding the designation of new public safety spectrum from the 746-806 MHz band was only one of many proposals for addressing public safety spectrum requirements through the year 2010. Concluding that as much as an additional 70 megahertz of spectrum will be required over the next 15 years to satisfy the mobile communications needs of the public safety community, PSWAC recommended the allocation of various bands, including 4635-4685 MHz, for public safety systems.^{9/} Congress, too, has recognized that the assignment of public safety licenses from broadcast channels 60-69 is not an exclusive remedy for existing public safety spectrum shortfalls. As a companion measure to the provisions of the Budget Act

^{8/} Notice at ¶ 11.

^{9/} PSWAC Final Report, at 22.

regarding channels 60-69, Congress directed the Commission to allow public safety licensees to use unassigned non-public safety channels to meet immediate needs where certain conditions are satisfied. 47 U.S.C. § 337(c). Thus, Congress understood that spectrum from the 746-806 MHz band would not alleviate all existing and future public safety shortfalls.

In sum, the allocation proposed in this proceeding should be viewed as a “building block” which, together with more immediate as well as longer term measures, will form a comprehensive approach to the communications problems facing public safety licensees. Toward this end, IMSA and IAFC urge the Commission: (1) to move forward with the licensing of new public safety spectrum pursuant to this docket, in accordance with the applicable statutory deadline; (2) to proceed with the assignment of available non-public safety channels to public safety entities on a case-by-case basis, as required by the Budget Act; and (3) to consider and follow through on PSWAC’s other proposals for addressing public safety communications requirements.

D. The Further Implementation of the Commission’s Proposal Should be Consistent With the Existing Public Safety Allocation in the 800 MHz Band, While Following the Coordination Model Adopted in the “Refarming” Proceeding

In its Notice, the Commission expressly deferred consideration of specific issues regarding the licensing of the new public safety spectrum (such as whether to adopt a channeling plan) to a further notice of proposed rule making.^{10/} In light of Congress’s

^{10/} See Notice at ¶ 12.

subsequent imposition of a deadline of September 30, 1998 for commencing assignment of the new licenses, IMSA/IAFC implore the Commission to place this proceeding on a fast track schedule and to issue a Further Notice as soon as possible.

With regard to such a Further Notice, IMSA and IAFC believe that the operational rules to be developed must be compatible with those governing the existing public safety allocations in the 800 MHz band, as the new public safety band will be, in effect, an extension of these existing allocations. Further, for both the new and existing public safety allocations at 800 MHz, IMSA/IAFC recommend that the Commission propose and ultimately adopt frequency coordination procedures modeled on those recently adopted in the "refarming" proceeding for public safety bands below 800 MHz. The new channels and the existing 800 MHz channels function as a public safety pool, just as the Commission recognized the former Local Government Service (and expanded upon its frequency complement) as the public safety pool in the VHF and UHF bands. Consequently, as provided in the "refarming" proceeding, any certified frequency coordinator in the Public Safety Radio Services should be permitted to coordinate public safety frequencies in the 746-869 MHz band. This approach would foster competition among frequency coordinators and would enable the creation of a common management system for all public safety pool frequencies.

III. CONCLUSION

In an era where available communications capabilities could provide immeasurable assistance to public safety entities in the discharge of their duties, the

Commission's top priority should be to ensure that these entities have adequate spectrum to expand existing systems, implement new technologies and facilitate interoperability. The proposed allocation from broadcast channels 60-69 is a necessary first step in this direction. IMSA/IAFC commend the Commission's efforts in this regard and urge it to continue working with the public safety community to eradicate the spectrum deficiencies that have persisted for far too long.

WHEREFORE, THE PREMISES CONSIDERED, the International Municipal Signal Association and the International Association of Fire Chiefs, Inc. respectfully urge the Federal Communications Commission to act in a manner fully consistent with the views expressed herein.

Respectfully submitted,

**INTERNATIONAL MUNICIPAL SIGNAL
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